

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

395 LAMPE, LLC, a Nevada limited liability company,

Case No.

Plaintiff/
Counterclaim Defendant,

V.

KAWISH, LLC, a Washington limited liability company; and TIMOTHY L. BLIXSETH and JANE DOE BLIXSETH, husband and wife,

**NOTICE OF REMOVAL OF CIVIL
ACTION UNDER 28 U.S.C. § 1334(E)(1)**

Defendants/
Counterclaim Plaintiffs/
Third-Party Plaintiffs,

1

WAYNE L. PRIM, an individual residing in Nevada; THE BLACKSTONE CORPORATION, a Washington corporation; PRIM 1988 REVOCABLE TRUST, a private trust; and OVERLOOK PARTNERS, LLC, a Washington limited liability company,

Third-Party Defendants.

TO: TO THE CLERK OF THE ABOVE-ENTITLED COURT:

AND TO: THE PARTIES AND THEIR COUNSEL.

PLEASE TAKE NOTICE that Defendant Kawish LLC hereby removes to this Court the state action described herein pursuant to 28 U.S.C. § 1452. Removal is proper on the following grounds:

1. Kawish LLC is a Defendant in 395 Lampe LLC v. Kawish LLC and Timothy L.
 2 Bixseth and Jane Doe Bixseth, which was filed on May 10, 2012, in the Superior Court of
 3 Washington in and for the County of King, under Case No. 12-2-16763-0 KNT (the “Action”).
 4 A true and correct copy of the Complaint is attached an exhibit to the Verification of Records for
 5 Removal.

6. On August 31, 2012, Kawish LLC filed a Voluntary Petition for Chapter 11
 7 bankruptcy with the U.S. Bankruptcy Court, Western District of Washington, under Case
 8 No. 12-19059. A true and correct copy of the Notice of the Filing of the Petition is attached an
 9 exhibit to the Verification of Records for Removal.

10. The Action is, in part, an action for judicial foreclosure of debt secured against
 11 one real property asset of the bankruptcy estate of Kawish LLC (“Bankruptcy Estate”) located in
 12 Medina, King County, Washington. The Action, thus, concerns an asset over which this Court
 13 has exclusive jurisdiction pursuant to 28 U.S.C. § 1334(e)(1). The debtor asserts that the debt
 14 on which the foreclosure is based was cross-collateralized with other property belonging to
 15 another defendant and has been extinguished by a disposition by that creditor, Plaintiff
 16 395 Lampe LLC. In addition, the Action involves foreclosure of additional junior liens sought
 17 to be foreclosed by an affiliate of 395 Lampe LLC. Because the matter involves the validity and
 18 amount of claimed liens against property of the Bankruptcy Estate, it is a core proceeding under
 19 28 U.S.C. § 157(2)(k).

20. The non-debtor defendant has asserted claims against 395 Lampe LLC and third
 21 parties arising from the same nexus of transactional facts in that debts in addition to the debt
 22 secured against the real property of the Bankruptcy Estate were extinguished by the disposition
 23 of the additional collateral. In specific, the loan obligation which is the principal subject matter
 24 of the Complaint was cross collateralized by membership shares of Defendant Blixseth in
 25 Western Pacific Timber LLC. Defendant Blixseth has filed a counterclaim requesting a
 26 Declaratory Judgment that the debt which is the subject matter of both actions has been
 27 extinguished by the transfer of ownership of those membership interests to 395 Lampe LLC.

WHEREAS Defendant Kawish LLC requests that the action now pending against it in the Superior Court of Washington in and for the County of King be removed to this Court.

DATED this 5th day of September, 2012.

BRAIN LAW FIRM PLLC

By:

Paul E. Brain, WSBA #13438

Counsel for Defendant Kawish LLC

NOTICE OF REMOVAL OF CIVIL ACTION UNDER 28 U.S.C.
§ 1334(E)(1) - Page 3

BRAIN LAW FIRM PLLC
1119 PACIFIC AVENUE, SUITE 1200
TACOMA, WASHINGTON 98402
TEL: 253-327-1019 / FAX: 253-327-1021

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of September, 2012, served a true and correct copy of the foregoing document upon counsel of record, via the methods noted below, properly addressed as follows:

Counsel for Plaintiff 395 Lampe LLC and Third-Party Defendant Prim 1988 Revocable Trust:

Jody M. McCormick
Witherspoon Kelley
422 West Riverside Avenue, Suite 1100
Spokane, WA 99201

Hand Delivery
 U.S. Mail (first-class, postage prepaid)
 King County Superior Court eService
 Email (courtesy copy)

*Counsel for Plaintiff 395 Lampe LLC, Third-Party Defendant Wayne L. Prim and
Third-Party Defendant Prim 1988 Revocable Trust;*

Mark H. Gunderson _____ Hand Delivery
Austin K. Sweet _____ U.S. Mail (first-class, postage prepaid)
Gunderson Law Firm _____ King County Superior Court eService
3895 Warren Way _____
Reno, NV 89509 _____
 Email (courtesy copy)

Counsel for Third-Party Defendants Wayne L. Prim and The Blackstone Corporation:

Thomas S. Linde
Schweet Rieke & Linde PLLC
575 South Michigan Street
Seattle, WA 98108

Hand Delivery
 U.S. Mail (first-class, postage prepaid)
 King County Superior Court eService
 Email (courtesy copy)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 5th day of September, 2012, at Tacoma, Washington.

Janet O'Brien